

**Remarks/Arguments:**

Claims 1-11, as presently amended, are pending.

Claims 12 and 13 are canceled hereby, without prejudice or disclaimer.

Claim 6 is withdrawn pursuant to restriction.

Claims 1, 5, 8, 10, and 11 are amended, hereby, in order to more clearly define the instant invention. More precisely, claim 1 is amended to recite "a medicament for treating neoplasms." Claim 5 is currently amended to recite "the oligonucleotide has a sequence according to SEQ ID NOS: 1-213"; claim 10 being similarly amended, now recites "one of the sequences of SEQ ID NOS: 1-213." Claim 8 is currently amended by replacing "such as" with "selected from the group consisting of" – thereby, creating a Markush grouping – and by rewriting part of line 3 to read "or the stimulator is one of." Claim 11 is currently amended by deleting the phrase "having the sequence" from the end of the claim.

Applicants wish to thank the examiner for reconsidering the restriction requirement and, accordingly, rejoining claims 9 and 10 with elected (Group I) claims 1-5, 7, 8, and 11-13. Applicants also wish to thank the examiner for the timely indication of allowable subject matter – SEQ ID NO: 7 being found free of the prior art, according to the Office Action.

Claims 5, 8, 10, and 11 were rejected under 35 USC 112, second paragraph, for allegedly being indefinite. Reconsideration is requested in view of the changes to the claims effected hereby.

As indicated, above, "SEQ ID NOS: 1-213" replaces the reference to figures in each of the rejected claims. In claim 8, the phrase "such as" is deleted, and in claim 11 the phrase "having the

sequence" is deleted, in accordance with the instant amendment. Since the claims, as currently amended, refer to figures, recite "such as," and "having the sequence," the rejection under §112, second paragraph, is overcome, and withdrawal of the rejection appears to be in order.

Claims 12 and 13 were rejected under 35 USC 112, first paragraph, for allegedly lacking enablement. The rejection is rendered moot by cancellation of the rejected claims, hereby.

Claims 1-4, 7, 8, 12, and 13 were rejected under 35 USC 102(b) as being allegedly anticipated by *PNAS*, 93, 1996, 2909-2914 (Fakhrai). Reconsideration of the rejection is requested.

For anticipation under § 102 to exist, each and every claim limitation, as arranged in the claim, must be found in a single prior art reference. *Jamesbury Corp. v. Litton Industrial Products, Inc.*, 225 USPQ 253 (Fed. Cir. 1985). The absence from a prior art reference of a single claim limitation negates anticipation. *Kolster Speedsteel A B v. Crucible Inc.*, 230 USPQ 81 (Fed. Cir. 1986). A reference that discloses "substantially the same invention" is not an anticipation. *Jamesbury Corp.* To anticipate the claim, each claim limitation must "*identically* appear" in the reference disclosure. *Gechter v. Davidson*, 43 USPQ2d 1030, 1032 (Fed. Cir. 1997) (*emphasis added*). To be novelty defeating, a reference must put the public in possession of the identical invention claimed. *In re Donahue*, 226 USPQ 619 (Fed. Cir. 1985).

Fakhrai discloses the genetic modification of 9L gliosarcoma cells and use of the modified cells in gene-therapy experiments on rats. As part of these experiments 9L cells were modified with a TGF- $\beta$ 2 vector. Then, the "TGF- $\beta$ 2 antisense modified 9L cells" were "transduced" with an IL-2 vector (Fakhrai, page 2909, right-hand column, 2<sup>nd</sup> full paragraph).

So, even assuming that the TGF- $\beta$  antisense vector is the "at least one inhibitor" of claim 1 and the IL2 vector is the "at least one stimulator" of claim 1, Fakhrai does not disclose a "combination" of the two as a "medicament". As explained, above, the two vectors are used separately from one another, to modify 9L cells – they are not used in "combination" as the "medicament" presently claimed. A medicament is something that treats or prevents or alleviates the symptoms of diseases. A synonym is the term "drug" (see the attached 3-page online dictionaries' search). According to 21 USC 320, a drug is defined as something intended for use in men or animals. Therefore, the term "medicament" does not cover the separate modification of isolated cells in-vitro. Accordingly, Fakhrai fails to meet all the limitations of the rejected claims.

Since each and every claim limitation, as arranged in the rejected claims, is not found in Fakhrai, anticipation under §102(b) based on Fakhrai does not exist. *Jamesbury Corp., supra*.

Claims 1-4, 7, 8, and 8 were rejected under 35 USC 102(e) based on US 6,376,199 (Caniggia). Reconsideration is requested.

Caniggia is not available as prior art against the subject application under §102(e). The §102(e) date of the reference is December 21, 1999, which is antedated by the filing date of the subject, National Stage application – June 10, 1999. Accordingly, the §102(e) rejection based on Caniggia appears to be in order for withdrawal.

Moreover, Caniggia does not meet the rejected claims. The rejection pointed to column 12, line 42 to columns 13 and 42. The disclosure of medicaments combining substances is rather vague in Caniggia. Column 12, lines 42 to 44, of the reference, discloses:

One or more inhibitors or one or more stimulators of TGF- $\beta$ 3 , TGF $\beta$  receptors, or HIF-1 $\alpha$  . . . may be incorporated.

This does not disclose a combination of an inhibitor and a stimulator.

Column 13, starting from line 5, of Caniggia discloses:

The compositions of the invention may be administered together with or prior to administration of other biological factors that have been found to affect trophoblast proliferation. Examples of these factors include IL-11 . . . . G-CSF, GM-CSF and M-CSF.

As shown in the quotation from column 12, the "compositions of the invention" of Caniggia may be stimulators or inhibitors of TGF- $\beta$ . As can be derived from the quotation from column 13, they can be administered together or prior to other biological factors. This does not directly disclose a combination of a TGF- $\beta$  inhibitor with a stimulator.

Claims 5 and 10, as amended, are allowable. These claims were rejected only under §112, ¶2, which is overcome by the instant amendment, as explained above.

***Request for Acknowledgment of  
Foreign Priority Under 35 USC 119***

A claim to foreign priority under 35 USC 119 has been made in the inventorship declaration, of record, and the certified copy of the priority document received by the PTO.

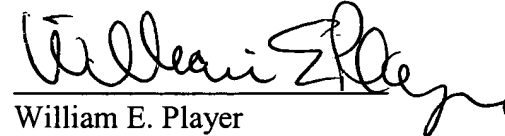
Receipt of the certified copy is acknowledged in the present Office Action; however, the §119 priority claim, itself, is not. Accordingly, request is made that the Examiner mark the next Office Action to acknowledge the claim to §119 priority.

Favorable action is requested.

Respectfully submitted,

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## WordNet 2.0 Search

Search word:

### Results for "Synonyms, ordered by estimated frequency" search of noun "medicament"

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*Display synonyms and immediate hypernyms of synsets containing the search string. Synsets are ordered by frequency of occurrence.*

*Hypernym is the generic term used to designate a whole class of specific instances. Y is a hypernym of X if X is a (kind of) Y.*

*Hypernym synsets are preceded by "=>".*

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#### 1 sense of medicament

##### Sense 1

medicine, medication, medicament, medicinal drug -

- ((medicine) something that treats or prevents or alleviates the symptoms of disease)

=> drug - (a substance that is used as a medicine or narcotic)

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Medicament

06.12.2004 11:59 Uhr



Webster's Online Dictionary			
The Roget's Edition™			
Startseite	Index	Credits	Alles über Webster's
			Suche (Search)
<input checked="" type="radio"/> Englisch (English)		<input type="radio"/> Non-English	

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## Medicament

### Definition: Medicament

#### Medicament

##### Noun

1. Something that treats or prevents or alleviates the symptoms of disease.

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Date "medicament" was first used in popular English literature: sometime before 1851. ([references](#))

### Specialty Definitions: Medicament

#### Domain

#### Definitions

#### Health

A medicinal substance or agent. ([references](#))

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### Synonyms: Medicament

Synonyms: medication (n), medicinal drug (n), medicine (n). ([additional references](#))

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### Synonyms within Context: Medicament

#### Context

Synonyms within Context (source: adapted from [Roger's Thesaurus](#)).

#### Remedy

Noun: remedy, help, cure, redress; medicine, medicament; diagnosis, medical examination; medical treatment; surgery; preventive medicine.

Medicine, physic, Galenicals, simples, drug, pharmaceutical, prescription, potion, draught, dose, pill, bolus, injection, infusion, drip, suppository, electuary; linctus, lincture; medicament; pharmacon.

Source: adapted from [Roger's Thesaurus](#).

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### Crosswords: Medicament

Non-English Usage: "Medicament" is also a word in the following languages with English translations in parentheses.  
Dutch (medicament), Romanian (drug, medicament, medicine, pharmaceutical, physic).

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### Commercial Usage: Medicament

#### Domain

#### Title

#### Periodicals

- Industrie Du Medicament : Cadre Juridique France ([reference](#))
- Le Point Veterinaire - Without Dictionnaire Du Medicament Veterinaire ([reference](#))
- Dossier Du Centre National D'Information Sur Le Medicament Hospitalier ([reference](#))  
(more [periodical](#) examples)

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### Frequency of Internet Keywords: Medicament

The following statistics estimate the number of searches per day across the major English-language search engines as identified by various trade publications. Hyperlinks lead to commercial use of the expression at [Amazon.com](#).

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**medicament**

**A** noun

1 medicine, medication, medicament, medicinal drug  
(medicine) something that treats or prevents or alleviates the symptoms of disease

*Federal Statutes*

- \* U.S. Code:
- \* Food and Drugs - 21 U.S.C.

**TITLE 21 > CHAPTER 9 > SUBCHAPTER II**

**§ 321. Definitions; generally**

*Release date: 2004-08-06*

For the purposes of this chapter—

(g)

(1) The term "drug" means

(A) articles recognized in the official United States Pharmacopoeia, official Homoeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them; and

(B) articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; and

(C) articles (other than food) intended to affect the structure or any function of the body of man or other animals; and

(D) articles intended for use as a component of any article specified in clause (A), (B), or (C). A food or dietary supplement for which a claim, subject to sections 343 (r)(1)(B) and 343 (r)(3) of this title or sections 343 (r)(1)(B) and 343 (r)(5)(D) of this title, is made in accordance with the requirements of section 343 (r) of this title is not a drug solely because the label or the labeling contains such a claim. A food, dietary ingredient, or dietary supplement for which a truthful and not misleading statement is made in accordance with section 343 (r)(6) of this title is not a drug under clause (C) solely because the label or the labeling contains such a statement.

(2) The term "counterfeit drug" means a drug which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, or device, or any likeness thereof, of a drug manufacturer, processor, packer, or distributor other than the person or persons who in fact manufactured, processed, packed, or distributed such